IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5394 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Petitioner(s)

Versus

MAHESHKUMAR SHANTILAL VIKARMA - Respondent(s)

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Appearance :
GOVERNMENT PLEADER for Petitioner(s) : 1 - 2.
MR JAGDISH H MEHTA for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 28/11/2005

ORAL JUDGMENT

1. This petition is directed against the award dated 19.10.2000 passed by the Labour Court, Junagadh in reference (LCJ) No.108/1994 whereby the Labour Court has directed the petitioner to reinstate the respondent on

his original post with 50% backwages.

2. The brief facts of the case are that the respondent was working as a watchman in the petitioner's project on daily wage basis. He was discharged on 08.11.1993 for want of work. He, therefore, raised a dispute which was referred to the Labour Court and the Labour Court passed the aforesaid award.

3. Learned counsel for the petitioner contended that it is not true that he had worked as a watchman for one year and two months. Actually, the respondent had worked in piecemeal manner since 1992 as a daily wager.

4. After having heard the learned counsels for the parties and after having gone through the facts and circumstances of the case, it is found that the petitioner in the written statement has admitted that the respondent was working in a nursery. However, the respondent has claimed that he was working as a watchman. The Labour Court has not come to a conclusion regarding the status of the respondent herein.

5. As a result of the hearing and perusal of record, a consensus has been arrived at between the parties to remand the matter to Labour Court.

6. In the premises aforesaid, the petition is partly allowed. The order of the Labour Court is quashed and set aside. The matter is remanded to the Labour Court for fresh decision. The Labour Court shall hear and decide the matter within six months from the date of receipt of the writ of this court. The Labour Court will examine the matter afresh keeping in mind the evidence and the law declared by this court. Rule made absolute to the aforesaid extent. No order as to costs.

(K.S. JHAVERI, J.)

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